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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/684,207

10/10/2003

Stephen Gold

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22879

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10/11/2006

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EXAMINER

DILLON, SAMUEL A

ART UNIT

PAPER NUMBER

2185

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/684,207

Applicant(s)

GOLD ET AL.

Examiner

Sam Dillon

Art Unit

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/10/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/10/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The instant application having Application No. 10/684,207 has a total of 23 claims pending in the application; there are 3 independent claims and 20 dependent claims, all of which are ready for examination by the examiner.

#### **I. INFORMATION CONCERNING OATH/DECLARATION**

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in 37 C.F.R. ' 1.63.

#### **II. INFORMATION CONCERNING DRAWINGS**

3. The applicant's drawings submitted October 10, 2003 are acceptable for examination purposes.

#### **III. ACKNOWLEDGEMENT OF INFORMATION DISCLOSURE STATEMENT**

4. The information disclosure statement (IDS) submitted on October 10, 2003 is in compliance with the provisions of 37 CFR 1.97. As required by M.P.E.P. ' 609 (C), the applicant's submission of the submitted IDS is acknowledged by the examiner and the cited references have been considered in the examination of the claims now pending. As required by M.P.E.P. ' 609 C(2), a copy of the PTOL-1449 initialed and dated by the examiner is attached to the instant office action.

**IV. REJECTIONS NOT BASED ON PRIOR ART**

**Claim Rejections - 35 USC ' 112**

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claim 20-22** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. **Claim 20** recites the limitation "*the instructions for configuring the required number of scratch media*" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. **Claim 19**, upon which **Claim 20** depends, does not recite any limitation disclosing scratch media, a required number of scratch media, configuring the scratch media or instructions for doing the same. For the purposes of further examination, the Examiner will interpret the claim as reading:

*"The medium of claim 19, wherein the instructions for ~~presenting the required number of scratch media~~ comprise instructions, which, when executed by the machine, cause the machine to perform the actions of before receiving the list of media, configuring a physical location for each of the backup devices."*

8. **Claims 21-22** are rejected by virtue of their dependence.

**V. REJECTIONS BASED ON PRIOR ART**

**Claim Rejections - 35 USC ' 102 - Vines**

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1-9, 13-15 and 19-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Vines (*"How to save your files and your sanity"*).

11. As per **Claims 1, 13 and 19**, but more specifically to Claim 13, Vines discloses a system comprising:

a planner (*program, section "The Save dialog box", line 1*) to receive a list of media (*file, section "Computing Rule #1", line 1*) to be loaded into a plurality of backup devices (*drives, section "Save it" line 5*) and to order the list by physical location of the backup devices (*the list is length 1, so is inherently ordered by any measure of ordering*); and

a user interface, communicatively coupled to the planner, to present the ordered list to a user (*section "The Save dialog box"*).

12. As per **Claims 2, 14 and 20**, but more specifically to Claim 13, Vines discloses the system of Claim 13, further comprising

a configuration agent, communicatively coupled to said planner, to configure a physical location for each of the backup devices (*as the drives are*

*assigned logical drive letters, it is inherently implied that each of the drives has been assigned a physical location by a machine or user, section "Save it").*

13. As per **Claim 3**, Vines discloses the method of **Claim 2**, wherein configuring the physical location comprises

obtaining information for one or more site locations and assigning each of the backup devices to one of the site locations (*inherent in a computer having a drive is a user or technician installing the drive to a computer or to storage means, the means fulfilling the limitation of the site location*).

14. As per **Claim 4**, Vines discloses the method of **Claim 3**, wherein configuring the physical location further comprises:

obtaining information for one or more data centers, each of the data centers associated with one of the site locations; and assigning each of the backup devices to one of the data centers (*a hard drive in a computer is a backup device assigned to a "data center", i.e. the collection of all hard drives in that computer*).

15. As per **Claims 5 and 21**, but more specifically to **Claim 5**, Vines discloses the method of **Claim 2**, wherein configuring the physical location comprises

assigning a grid location in a data center to at least one of the backup devices (*a grid location is interpreted as an address, which is inherently implied if the computer of Vines has multiple drives and is able to differentiate between them, section "Save it")*).

Art Unit: 2185

16. As per **Claims 6 and 22**, but more specifically to **Claim 6**, Vines discloses the method of **Claim 5**, wherein configuring the physical location further comprises

assigning an order number to each of the grid locations (*any address the grid locations is inherently implied to be numerical in nature as it is realized in a computing system*).

17. As per **Claim 7**, Vines discloses the method of **Claim 5**, wherein assigning a grid location comprises for at least one of the backup devices,

automatically assigning, to the backup device, a grid location of a system attached to the backup device (*an address of the backup device is shared by pieces of the backup device*).

18. As per **Claim 8**, Vines discloses the method of **Claim 1**, wherein

ordering the list comprises ordering the list of media by an order number associated with each of the backup devices (*the drives are inherently ordered by the drive letter, section "Save it"*).

19. As per **Claims 9 and 15**, but more specifically to **Claim 15**, Vines discloses the system of **Claim 13**, wherein said user interface is further to

receive a list of media (*selection of where to save file, section "Save it"*) to be used for one or more future executions of one or more backup jobs (*saving of a file, section "Save it"*) associated with the backup device and to transmit the list to said planner (*clicking OK, section "Save it"*).

**VI. RELEVANT ART CITED BY THE EXAMINER**

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. Tanenbaum ("*Structured Computer Organization*") teaches that hardware and software are logically equivalent.

**VII. CLOSING COMMENTS**

**a. STATUS OF CLAIMS IN THE APPLICATION**

22. The following is a summary of the treatment and status of all claims in the application as recommended by M.P.E.P. ' 707.07(i):

**a(1). SUBJECT MATTER CONSIDERED ALLOWABLE**

23. Claim 10-12, 16-18 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**a(2). CLAIMS REJECTED IN THE APPLICATION**

24. Per the instant office action, Claims 1-9, 13-15 and 19-22 have received a first action on the merits and are subject of a first action non-final.

**b. DIRECTION OF FUTURE CORRESPONDENCES**

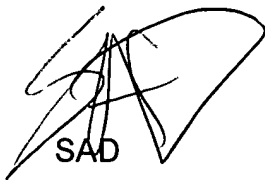
25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Dillon whose telephone number is 571- 272-8010. The examiner can normally be reached on 8:30-5:00.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sanjiv Shah can be reached on 571-272-4098. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**IMPORTANT NOTE**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SAD

Sam Dillon  
Examiner  
Art Unit 2185



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